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Person To Contact: _____, ID No. _____

Refer Reply To:
CC:FIP:B04
PLR-145207-11
Date: March 16, 2012

Dear _____ :

Taxpayer was founded to provide State homeowners access to quality, affordable home insurance. For the short year that began on Date 1 and ended on Date 2 ("Year 1"), 100% of its expenditures were business start-up costs and were capitalized until such time that business officially commenced and amortization would begin. Taxpayer began issuing policies late in Date 3.

Because of the capitalization of 100% of the Taxpayer's business start-up costs, the only remaining item left to be reported on Taxpayer's initial return for Year 1 was Amount 1 of interest income. This caused the return to appear as if it were being filed as a small company as defined in section 831(b)(2), only reporting its investment income. However, the real reason that investment income was the only item reported was because that was the only income the Taxpayer had received.

During preparation of Year 1 federal income tax return, the election under section 831(b)(2) to be treated as a small insurance company, taxable only on its taxable investment income, was inadvertently and erroneously included with the return. This error was unfortunately overlooked during the haste of trying to get this first year filed for Year 1. Upon commencement of preparation of Year 2 federal income tax return, this erroneous election was noted, prompting the immediate filing of this request for revocation.

Law and Analysis:

Section 831(a) of the Code imposes a tax for each taxable year on the taxable income of every insurance company other than a life insurance company.

Section 831(c) states that a company is an insurance company if it meets the requirement in section 816(a)(2) that "more than half of the business" of that company is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies.

Section 831(b) provides an alternative tax that applies to an insurance company other than a life insurance company if (i) the company's net written premiums (or, if greater, direct written premiums) for the taxable year exceed \$350,000, but do not exceed \$1,200,000, and (ii) the company elects the application of section 831(b) (the alternative tax) for the taxable year.

Section 831(b)(3) provides that, for purposes of Part II of Subchapter L, except as provided in section 844, a net operating loss (as defined in section 172) shall not be carried (A) to or from any taxable year for which the insurance company is not subject to the tax imposed by section 831(a), or (B) to any taxable year if, between the taxable year from which such loss is being carried and such taxable year, there is an intervening taxable year for which the insurance company was not subject to the tax imposed by section 831(a).

Taxpayer made the election for Year 1. However, Taxpayer did not issue policies until the end of Date 3. During Year 1, Taxpayer was not issuing insurance policies and, therefore, had no premium income for Year 1.

Because Taxpayer does not meet the definition of insurance company under section 816, Taxpayer was not taxable under section 831 when the election was made and, therefore, was unable to make a section 831(b) election.

Conclusion:

Taxpayer was not entitled to make the section 831(b) election because it was not an insurance company subject to section 831 for Year 1, the year for which it claimed the section 831(b) election. Therefore, Taxpayer's ruling request is denied because Taxpayer's 831(b) election was not valid and does not need to be revoked.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Sarah Lashley
Assistant to the Branch Chief, Branch 4
(Financial Institutions & Products)